

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TENNESSEE**

ACT, INC., : Case No. 3:18-cv-00186-TRM-HBG  
Plaintiff and Counter-Defendant, :  
v. :  
WORLDWIDE INTERACTIVE NETWORK, : JURY TRIAL DEMANDED  
INC. and TERESA CHASTEEN, :  
Defendants and Counter-Claimants. :  
:

## **DECLARATION OF MARY MOLUSKY**

I, Mary Molusky, declare as follows:

1. I am employed by ACT, Inc. (“ACT”) as Lead Program Manager, State Partnerships.

2. The U.S. Department of Justice - Federal Bureau of Prisons (“FBOP”) issued a request for information to ACT in the summer of 2019 and subsequently issued a Request for Proposal. ACT responded to both and on or around September 30, 2019 entered into a contract with FBOP to provide WorkKeys assessments.

3. The South Carolina Department of Education offered a training program for new prison administrators of the WorkKeys assessments. I received a call from Tanja Murphy, Assistant Education Administrator at FBOP. She informed me that several FBOP sites were confused about whether they were required to participate in the training since they were already using WorkKeys. For example, a local FBOP personnel, Ms. Gordon of the Federal Correctional

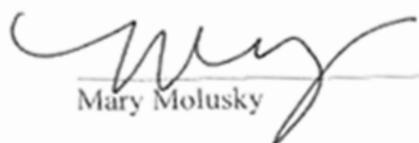
Institution (“FCI”) at Williamsburg, South Carolina, contacted Ms. Murphy and asked whether she was required to participate in the training even though she was already using the WorkKeys assessments. Based on our conversation, I got the impression that FCI may not actually be using WorkKeys assessments and so I asked her to send me documentation to review to determine what was causing the confusion. Ms. Murphy followed up on that call by sending me an email that is included as Exhibit M1 hereto. The email explains that the current Memorandum of Understanding with Williamsburg Adult Education specifically states – “The instructional program will provide Career Readiness Certificate (CRC) instruction and administer the Workkeys Assessment. Workkeys is a nationally recognized credential, it is evidence-based, and certifies essential skills that are needed for workplace success.” However, the documents attached to the email demonstrated that despite the language in the MOI, FCI was now using both WIN and ACT products. One of the attachments is an ACT National Career Readiness Certificate (“NCRC”) and skill report for a person with the last name of Brown. Another is a South Carolina Work Ready certificate for a person with the last name of Young. Another is a Learner Report with a WIN logo in the top left hand corner.

4. In response to the concern and confusion expressed by Ms. Gordon and Ms. Murphy, I sent Ms. Murphy the email that is included in Exhibit M1, in which I explained that: the certificate and skill report for last name – Brown are from ACT; the South Carolina Work Ready certificate for last name – Young is not from ACT and is not a NCRC, which is offered by ACT; and that the Learner Report is not from ACT.

5. I further discovered from my conversations with Ms. Murphy that there were at least two other prisons using WIN’s assessments and I am not privy to the full extent of confusion.

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct.

Executed on this 20<sup>th</sup> day of May, 2020, at Iowa City, Iowa.



Mary Molusky

A handwritten signature in black ink, appearing to read "Mary". It is written in a cursive style with a horizontal line underneath it.

*ACT, Inc. v. Worldwide Interactive Network, Inc.*  
**U.S. District Court for the Eastern District of Tennessee**  
**Case No. 3:18-cv-00186-TRM-HBG**

**EXHIBIT M1**  
**to**  
**DECLARATION OF MARY MOLUSKY**

**From:** BOP-EDU/CWRCP <BOP-EDU/CWRCP@bop.gov>  
**Sent:** Thursday, February 13, 2020 5:52 AM  
**To:** Mary Molusky  
**Cc:** Jenn McMahon; Melody Wall  
**Subject:** WorkKeys Score Sheets and Book Covers.pdf  
**Attachments:** WorkKeys Score Sheets and Book Covers.pdf

Good morning,

This was sent from Ms. Gordon at FCI Williamsburg. Their current MOU with Williamsburg Adult Education specifically states - ***The instructional program will provide Career Readiness Certificate (CRC) instruction and administer the Workkeys Assessment. Workkeys is a nationally recognized credential, it is evidence-based, and certifies essential skills that are needed for workplace success.***

# READING FOR INFORMATION



Mc  
Graw  
Hill

Career Readiness Preparation

Workplace Skills

# Locating Information

Career Readiness Preparation



Mc  
Graw  
Hill

Contemporary

Correlated to WorkKeys® Skills

Workplace Skills

# Applied Mathematics

Career Readiness Preparation



Mc  
Graw  
Hill

Contemporary

Correlated to WorkKeys® Skills



## NATIONAL CAREER READINESS CERTIFICATE®

The State of South Carolina awards a  
Silver National Career Readiness Certificate to

**EPHESIAN BROWN**

In recognition of verified skills essential to workplace success and career advancement.



Registered Certificate # NREWQQT5IKS6

Issue Date: July 16, 2016

  
Ephesian Brown



**ACT®**

copy of National Career Readiness Certificate - Registered ACT®



### NATIONAL CAREER READINESS CERTIFICATE

This certificate is earned through the ACT® National Career Readiness Test™. The NCRT™ is a portable credential that certifies essential workplace skills that are important for entry-level work. This credential is based on ACT's world renowned WorkKeys® assessments— which measure job skills associated with workplace success. Knowledge and skills related to job tasks are strong predictors of work performance. By earning the NCRT™, you have demonstrated the following skills at the \_\_\_\_\_ level:

- Critical thinking
- Reading and comprehending work-related text
- Applying information from workplace documents to solve problems
- Applying mathematical reasoning to work-related problems
- Setting up and performing work-related mathematical calculations
- Locating, synthesizing, and applying information that is presented graphically
- Comparing, summarizing, and applying information presented in multiple, related graphics

This certificate is registered with ACT® and may be verified by employers at [NationalCareerReadiness.org](http://NationalCareerReadiness.org).

### ACCESS YOUR ONLINE ACCOUNT

The NCRT™ is registered with ACT®. To make it easier for employers to verify your Certificate, you must activate your account at [NationalCareerReadiness.org](http://NationalCareerReadiness.org). Once you activate your account, you must either the steps to give permissions for employers to verify your Certificate level. Only people to whom you give your Certificate number can access your account.

- User ID: WILLIAMP5645
- Temporary Password: Rmghq3d4

*(See account terms: [choose your password](#) when first logging on.)*

Account activation instructions are available at [act.org/nationalcertificate/account.html](http://act.org/nationalcertificate/account.html).

ACT® is a registered trademark of ACT, Inc. All rights reserved. The National Career Readiness Test™ is a registered trademark of ACT, Inc. © 2007 ACT, Inc. All rights reserved.

The South Carolina Ready to Work  
**PLATINUM CREDENTIAL**

has been earned by

**Nathan Young**

for demonstrating mastery of the academic and employability skills.

12/27/2019



A handwritten signature in black ink on a white background.

Henry McMaster, Governor

# Platinum Ready to Work Credential

Ready to Work is based on validated career readiness assessments that provide a direct comparison of the skills an individual possesses with the skills needed to perform a job. The holder of this credential has a Platinum Credential which indicates the achievement of career readiness skills at a level required by 99% of all jobs in today's job market. The holder of this credential has mastered all the related skills leading up to and including:

## Applied Mathematics Skills for Level 6

- Use fractions, negative numbers, ratios, percentages, or mixed numbers
- Rearrange a formula before solving a problem
- Use two formulas to change from one unit to another within the same system of measurement
- Use two formulas to change from one unit in one system of measurement to a unit in another system of measurement
- Find mistakes in items that belong at Levels 3, 4, and 5
- Find the best deal and use the result for another calculation
- Find areas of basic shapes when it may be necessary to rearrange the formula, convert units of measurement in the calculations, or use the result in further calculations
- Find the volume of rectangular solids
- Calculate multiple rates

## Locating Information Skills for Level 6

- Draw conclusions based on one complicated graphic or several related graphics
- Apply information from one or more complicated graphics to specific situations
- Use the information to make decisions

## Reading for Information Skills for Level 6

- Identify implied details
- Use technical terms and jargon in new situations
- Figure out the less common meaning of a word based on the context
- Apply complicated instructions to new situations
- Figure out the principles behind policies, rules, and procedures
- Apply general principles from the materials to similar and new situations
- Explain the rationale behind a procedure, policy, or communication

There are four credential levels (Bronze, Silver, Gold, and Platinum). Each level requires successful completion of all three employability skills assessments.  
(Applied Mathematics, Locating Information, and Reading for Information).

Bronze requires a minimum score of 3 on all academic assessments.  
A bronze level credential demonstrates career readiness skills for 35% of today's jobs.

Silver requires a minimum score of 4 on all academic assessments.  
A silver level credential demonstrates career readiness skills for 65% of today's jobs.

Gold requires a minimum score of 5 on all academic assessments.  
A gold level credential demonstrates career readiness skills for 90% of today's jobs.

Platinum requires a minimum score of 6 on all academic assessments.  
A platinum level credential demonstrates career readiness skills for 99% of today's jobs.

Employers, to verify this Credential, please call 1-888-717-9461.

The South Carolina Ready to Work  
**ESSENTIAL SOFT SKILLS CREDENTIAL**

has been earned by

**Nathan Young**

for demonstrating mastery of the following essential soft skills:

- Cooperate with Others
- Resolve Conflict and Negotiate
- Solve Problems and Make Decisions
- Take Responsibility for Learning
- Observe Critically

**12/27/2019**

# Demonstration of Essential Soft Skills

COOPERATE WITH OTHERS	RESOLVE CONFLICT & NEGOTIATE	SOLVE PROBLEMS & MAKE DECISIONS	TAKE RESPONSIBILITY FOR LEARNING	OBSERVE CRITICALLY
<ul style="list-style-type: none"> <li>- Interact with others in ways that are friendly, courteous, and tactful and that demonstrate respect for others' ideas, opinions, and contributions.</li> <li>- Seek input from others in order to understand their actions and reactions.</li> <li>- Offer clear input on own interests and attitudes so others can understand one's actions and reactions.</li> <li>- Try to adjust one's actions to take into account the needs of others and/or the task to be accomplished.</li> </ul>	<ul style="list-style-type: none"> <li>- Acknowledge that there is a conflict.</li> <li>- Identify areas of agreement and disagreement.</li> <li>- Generate options for resolving conflict that have a "win/win" potential.</li> <li>- Engage parties in trying to reach an agreement on a course of action that can satisfy the needs and interests of all.</li> <li>- Evaluate results of efforts and revise approach as necessary.</li> </ul>	<ul style="list-style-type: none"> <li>- Anticipate or identify problems.</li> <li>- Use information from diverse sources to arrive at a clearer understanding of the problem and its root causes.</li> <li>- Generate alternative solutions.</li> <li>- Evaluate strengths and weaknesses of alternatives, including potential risks and benefits and short- and long-term consequences.</li> <li>- Select alternative that is most appropriate to goal, context, and available resources.</li> <li>- Establish criteria for evaluating effectiveness of solution or decision.</li> </ul>	<ul style="list-style-type: none"> <li>- Establish learning goals that are based on an understanding of one's own current and future learning needs.</li> <li>- Identify one's own strengths and weaknesses as a learner and seek out opportunities for learning that help build self-concept as a learner.</li> <li>- Become familiar with a range of learning strategies to acquire or retain knowledge.</li> <li>- Identify and use strategies appropriate to goals, task, context, and the resources available for learning.</li> <li>- Monitor progress toward goals and modify strategies or other features of the learning situation as necessary to achieve goals.</li> <li>- Test out new learning in real-life applications.</li> </ul>	<ul style="list-style-type: none"> <li>- Attend to visual sources of information, including television and other media.</li> <li>- Determine the purpose for observation and use strategies appropriate to the purpose.</li> <li>- Monitor comprehension and adjust strategies.</li> <li>- Analyze the accuracy, bias, and usefulness of the information.</li> <li>- Integrate information with prior knowledge to address viewing purpose.</li> </ul>

12/31/2019

Individual Learner Report



Dashboard Reports Resources Products Admin



## Individual Learner Report

First Name:	Last Name:	Username:	Unique ID:	Search	
From Date:	To Date:	Filter Date			
Name	Product				
	Date Completed	12	Session Time	Module	Content Type
▼ Name: Young, Nathan	00:00:00				eBadges
▼ Product: Essential Soft Skills Credential	00:00:00				Credentials
2019-12-27 03:12:42 PM	00:00:00	Essential Soft Skills	0	86	Certificates
2019-12-27 03:12:42 PM		Essential Soft Skills			0
2019-12-27 03:12:42 PM					
▼ Product: Ready to Work Credential	00:00:00				
2019-12-27 03:12:41 PM	00:00:00	Applied Mathematics	6	253	
2019-12-27 03:12:41 PM		Applied Mathematics			Platinum
2019-12-27 03:12:42 PM	00:00:00	Locating Information	6	240	
2019-12-27 03:12:42 PM		Locating Information			Platinum
2019-12-27 03:12:42 PM	00:00:00	Reading for Information	6	263	
2019-12-27 03:12:42 PM		Reading for Information			Platinum
2019-12-27 03:12:42 PM					Platinum
	00:00:00				eBadges: 4
					Credentials: 2
					Certificates: 0

© 2014-2019 Worldwide Interactive Newark, Inc.® - WIN Learning. All Rights Reserved.  
Software version 2.17.0 (Build: 3993)

<https://www.wincrsystem.com/DW/IndividualGrid?person=1269519>

1/1

The South Carolina Ready to Work

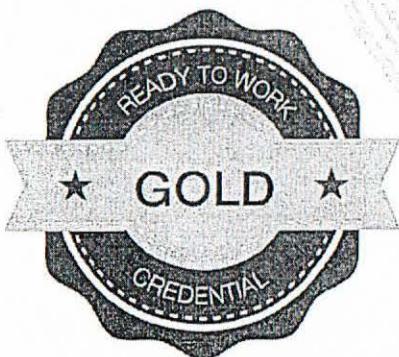
GOLD CREDENTIAL

has been earned by

**Jonathan Sheppard**

for demonstrating mastery of the academic and employability skills.

12/14/2018



Henry McMaster, Governor

# Gold Ready to Work Credential

Ready to Work is based on validated career readiness assessments that provide a direct comparison of the skills an individual possesses with the skills needed to perform a job. The holder of this credential has a Gold Credential which indicates the achievement of career readiness skills at a level required by 90% of all jobs in today's job market. The holder of this credential has mastered all the related skills leading up to and including:

## Applied Mathematics Skills for Level 6

- Use fractions, negative numbers, ratios, percentages, or mixed numbers
- Rearrange a formula before solving a problem
- Use two formulas to change from one unit to another within the same system of measurement
- Use two formulas to change from one unit in one system of measurement to a unit in another system of measurement
- Find mistakes in items that belong at Levels 3, 4, and 5
- Find the best deal and use the result for another calculation
- Find areas of basic shapes when it may be necessary to rearrange the formula, convert units of measurement in the calculations, or use the result in further calculations
- Find the volume of rectangular solids
- Calculate multiple rates

## Locating Information Skills for Level 5

- Sort through distracting information
- Summarize information from one or more detailed graphics
- Identify trends shown in one or more detailed or complicated graphics
- Compare information and trends from one or more complicated graphics

## Reading for Information Skills for Level 5

- Figure out the correct meaning of a word based on how the word is used
- Identify the correct meaning of an acronym that is defined in the document
- Identify the paraphrased definition of a technical term or jargon that is defined in the document
- Apply technical terms and jargon and relate them to stated situations
- Apply straightforward instructions to a new situation that is similar to the one described in the material
- Apply complex instructions that include conditionals to situations described in the materials

There are four credential levels (Bronze, Silver, Gold, and Platinum). Each level requires successful completion of all three employability skills assessments.  
(Applied Mathematics, Locating Information, and Reading for Information).

Bronze requires a minimum score of 3 on all academic assessments.  
A bronze level credential demonstrates career readiness skills for 35% of today's jobs.

Silver requires a minimum score of 4 on all academic assessments.  
A silver level credential demonstrates career readiness skills for 65% of today's jobs.

Gold requires a minimum score of 5 on all academic assessments.  
A gold level credential demonstrates career readiness skills for 90% of today's jobs.

Platinum requires a minimum score of 6 on all academic assessments.  
A platinum level credential demonstrates career readiness skills for 99% of today's jobs.

Employers, to verify this Credential, please call 1-888-717-9461.

# ACT® WorkKeys® Skill Report

Examinee: BROWN,WALTER  
 Realm: SC WRC Williamsburg County School District  
 Adult Education Center

Examinee ID\*\*: 6  
 Report Date: Apr 24, 2018

Manifest Name	Test Date	Level Score	Possible Range	Scale Score	Possible Range
WorkKeys Applied Math	4/1/2018	4	<3 - 7	76	65 - 90
WorkKeys Graphic Literacy	4/1/2018	4	<3 - 7	77	65 - 90
WorkKeys Workplace Documents	4/1/2018	4	<3 - 7	77	65 - 90

## WHAT YOUR SCORES MEAN

### **WorkKeys Applied Math:**

You scored at Level 4. People who score at Level 4 have demonstrated all of the Level 3 skills. They also have demonstrated the following skills:

- Solve problems that require one or two mathematical operations. They can add, subtract, or multiply using positive or negative numbers (such as 10 or -2), and they can divide positive numbers (such as 10).
- Calculate the average or mean of a set of numbers (such as  $(10+11+12)/3$ ). For this, they may use whole numbers and decimals.
- Figure out simple ratios (such as  $\frac{1}{4}$ ), simple proportions (such as 10/100 cases), or rates (such as 10 mph).
- Add commonly known fractions, decimals, or percentages (such as  $\frac{1}{2}$ , 0.75, or 25%).
- Add or subtract fractions with a common denominator (such as  $\frac{1}{4} + \frac{3}{4} + \frac{1}{4}$ ).
- Multiply a mixed number (such as  $12\frac{1}{8}$ ) by a whole number or a decimal.
- Put the information in the right order before they perform calculations.

### **WorkKeys Graphic Literacy:**

You scored at Level 4. People who score at Level 4 have demonstrated all of the Level 3 skills. They also have demonstrated, using graphics designed at the high-moderate level, the skill to locate and find information. Additionally, using graphics designed at the low-moderate level, they have demonstrated the following skills:

- Locate information in a graphic using information found in a second graphic
- Compare two or more pieces of information
- Identify a trend/pattern/relationship
- Make an inference or decision
- Identify the graphic that accurately represents the data

### **WorkKeys Workplace Documents:**

You scored at Level 4. People who score at Level 4 have demonstrated all of the Level 3 skills. They also have the skill to read and comprehend workplace documents written in straightforward sentences that use familiar vocabulary, conditionals, and a few advanced words. In reading these documents, they are able to:

- Identify the main idea
- Identify specific details
- Use the information in the document to figure out the meanings of words or phrases that are not defined for

© 2018 ACT, Inc. All rights reserved.

\*\*ID field is abbreviated to last four digits

Copy given on  
12/29/17

## WorkKeys Individual Summary Score Report

Examinee: MCGHEE, ANTONIO

Examinee ID\*\*: 1982

Realm:

Report Date: Dec 13, 2017

Test Site Name: WILLIAMSBURG COUNTY SCHOOL DISTRICT-ADULT EDUCATION CENTER

Manifest Name	Test Date	Level Score	Possible Range	Scale Score	Possible Range
WorkKeys Applied Math	10/1/2017	5	<3 - 7	80	65 - 90
WorkKeys Graphic Literacy	10/1/2017	5	<3 - 7	79	65 - 90
WorkKeys Workplace Documents	10/1/2017	4	<3 - 7	79	65 - 90

### WHAT YOUR SCORES MEAN

#### *WorkKeys Applied Math:*

You scored at Level 5. People who score at Level 5 have demonstrated all of the Levels 3 and 4 skills. They also have demonstrated the following skills to:

- Decide what information, calculations, or unit conversions to use to find the answer to a problem.
- Add and subtract fractions with unlike denominators (such as  $\frac{1}{2} - \frac{1}{4}$ ).
- Convert units within or between systems of measurement (e.g., time, measurement, quantity) where the conversion factor is given either in the problem or in the formula sheet.
- Solve problems that require mathematical operations using mixed units (such as adding 6 feet and 4 inches to 3 feet and 10 inches, or subtracting 4 hours and 30 minutes from 3.5 hours).
- Identify the best deal using one- or two-step calculations that meet the stated conditions.
- Calculate the perimeter or circumference of a basic shape, or calculate the area of a basic shape.
- Calculate a given percentage of a given number and then use that percentage to find the solution to a problem (e.g., find the percentage and then use it to find the discount, markup, or tax).
- Identify where a mistake occurred in a calculation (such as identifying the row in a spreadsheet where a problem occurred).

#### *WorkKeys Graphic Literacy:*

You scored at Level 5. People who score at Level 5 have demonstrated all of the Levels 3 and 4 skills. They also have demonstrated, using graphics designed at the high-moderate level, the skill to:

- Locate information in a graphic using information found in another graphic
- Compare two or more pieces of information
- Identify a trend/pattern/relationship
- Make an inference or decision
- Identify the graphic that accurately represents the data

Additionally, using graphics designed at the low-moderate level, they have demonstrated the following skills:

- Compare two or more trends/patterns/relationships
- Interpret a trend/pattern/relationship

A8065700-963349-18

- Make a reasonable inference or decision based on one graphic finding information in another graphic
- Justify a decision or inference based on information
- Identify the most effective graphic given a defined purpose
- Justify the most effective graphic given a defined purpose

**WorkKeys Workplace Documents:**

You scored at Level 4. People who score at Level 4 have demonstrated all of the Level 3 skills. They also have the skill to read and comprehend workplace documents written in straightforward sentences that use familiar vocabulary, conditionals, and a few advanced words. In reading these documents, they are able to:

- Identify the main idea
- Identify specific details
- Use the information in the document to figure out the meanings of words or phrases that are not defined for them
- Choose when to perform a step in a series of steps
- Apply information/instructions to a situation that is the same as the situation described in the document
- Choose what to do when changing conditions call for a different action